

## The Collapse of the Power of the Law in Ecocide Crimes by Corporations

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### Abstract

Ecocide and crimes of environmental destruction are part of the agrarian conflict in Indonesia so they must be dealt with firmly, there must be no negotiation process or exceptions to ecocide crimes, because the perpetrators of ecocide crimes are dominated by corporations who take cover behind their employees. The collapse of legal power is a result of the non-functioning of law enforcement against corporations that deliberately commit crimes of ecocide, by getting backing from both high-ranking legal institutions and the People's Representative Council, even central officials. This phenomenon can be seen in the increasing environmental damage that has an impact on the surrounding community, whether it is mining or mines that are managed officially or illegally. The ratification of Law Number 3 of 2020, concerning Amendments to Law Number 4 of 2009, concerning Mineral and Coal Mining, poses a serious threat to environmental sustainability. Apart from the increasingly distant supervision due to being drawn to the Center and investment permits which are also increasingly easier to issue, this has resulted in a lot of resistance arising from people who feel disadvantaged and want to save the environment in their area, but the big wall created by the government is there is a criminal snare. With the ratification of UU/3/2020, if a community suffers losses due to mining companies, whether in the form of environmental damage or land disputes, the Regional Government can no longer take any action. Because all mining authority is regulated by the Central Government, no longer the local Regency or City Government. In fact, so far most of the mining locations are in remote areas, even outside Java.

**Keywords:** Crime, Ecocide, Corporations, Punishment.

### INTRODUCTION

Environmental destruction, particularly ecocide, has increasingly become a critical component of agrarian conflicts across Indonesia (Odell, 2022). Ecocide refers to the extensive damage and destruction of ecosystems, primarily driven by human activity (Kiss, & Shelton, 2013). In Indonesia, this term has gained prominence due to large-scale deforestation, mining, and other exploitative activities that harm the environment and local communities. The country's natural wealth, including forests, water resources, and biodiversity, is under constant threat, often resulting in severe ecological damage and social upheaval. The rapid degradation of these resources points to an urgent need for legal intervention and effective policy-making.

A significant portion of these environmental crimes can be traced back to corporate actors, often large-scale enterprises in the mining, palm oil, and forestry sectors (Coulter, 2018). Such corporations frequently engage in practices that lead to severe environmental harm, such as deforestation, pollution of water resources, and loss of biodiversity. This exploitation of natural resources is usually driven by economic interests, with corporate entities prioritizing profits over sustainable environmental practices. The intricate connection between corporate activities and environmental destruction has made it increasingly challenging to separate economic development

from ecological conservation, presenting a complex scenario for law enforcement and regulatory bodies.

The consequences of ecocide extend far beyond environmental harm; they represent a profound legal and governance challenge. Indonesia's legal system, though equipped with laws aimed at environmental protection, often struggles to effectively implement these regulations, especially when corporate interests are at play. The lack of robust law enforcement mechanisms has rendered many environmental protection laws ineffective. Moreover, the legal framework in Indonesia, while ostensibly designed to protect natural resources, often falls short when dealing with powerful corporations that have the resources to exploit legal loopholes. Consequently, the imbalance in legal power has led to the widespread impunity of environmental offenders.

This article seeks to explore these challenges in depth, focusing on the growing incidence of ecocide and environmental destruction within Indonesia. It aims to shed light on how these crimes are facilitated by corporate actions, legal gaps, and the intricate relationship between business interests and political power. By examining specific cases and the overarching legal context, the article will address the underlying reasons for the weak enforcement of environmental laws and the challenges that law enforcement faces when dealing with corporate-led environmental crimes. Additionally, the research will scrutinize how the legal system's current weaknesses contribute to the perpetuation of ecocide, preventing meaningful environmental conservation efforts.

Recent legislative changes, particularly the ratification of Law Number 3 of 2020, which amends the previous Mineral and Coal Mining Law, have further exacerbated environmental governance issues. The law has centralized regulatory power over mining operations, transferring authority from local governments to the central government. This shift has made it more difficult for local communities to hold corporations accountable for environmental damage, as they now face additional bureaucratic barriers and diminished local oversight. As a result, there has been an increase in resistance and protest from communities affected by mining activities, who feel marginalized and deprived of the ability to protect their local environment from corporate exploitation.

Finally, the collapse of legal authority, manifested in the failure to enforce environmental laws effectively against corporations committing ecocide, calls for urgent critical analysis. Corporations often operate with the backing of influential legal and political entities, creating an environment where environmental offenses go unpunished. This dynamic not only perpetuates environmental destruction but also undermines the rule of law and democratic accountability in Indonesia. The support that corporations receive from high-ranking officials and legislative bodies hampers the enforcement of environmental protections and fosters a climate of impunity. Thus, the article will argue for stronger legal reforms, increased accountability for corporate environmental crimes, and a re-evaluation of policies that have contributed to the degradation of Indonesia's rich and diverse ecosystems.

## **METHODS**

The methodological approach of this study is grounded in a legal-normative framework, which involves a thorough examination of both primary and secondary legal sources relevant to environmental law in Indonesia (Higgins, 2010). Primary legal sources encompass the fundamental

legal documents that form the basis of environmental governance, such as national laws, governmental regulations, and official amendments. Secondary sources include case studies, legal commentaries, academic articles, and scholarly interpretations that provide context and a critical analysis of how environmental law is applied in practice. This dual focus enables the study to comprehensively analyze both the statutory language of the law and its real-world implications. By examining these sources, the research aims to develop a deep understanding of the legal instruments that govern environmental protection and to evaluate the effectiveness of their implementation. Special attention is given to the role of corporations in environmental destruction and the legal challenges in holding such entities accountable.

Central to this legal-normative analysis is the focus on the implications of the ratification of Law Number 3 of 2020, which significantly amends the previous Law Number 4 of 2009 concerning Mineral and Coal Mining. This legislative change represents a pivotal moment in Indonesia's environmental governance, as it centralizes regulatory power and shifts the responsibility for overseeing mining operations from local governments to the central government. To understand the consequences of this shift, the study adopts a qualitative approach, systematically identifying and examining the legal gaps, ambiguities, and enforcement challenges inherent in the amended legislation. The analysis seeks to reveal how these gaps facilitate the continuation of environmental destruction, particularly by large corporate actors who exploit weaknesses in the law to avoid liability. By addressing the intersection of legal policy and practical enforcement, the research contributes to an in-depth understanding of the legal landscape surrounding ecocide and offers insights into the broader issues of environmental governance and corporate accountability in Indonesia.

## **RESULTS**

The research reveals that the ratification of Law Number 3 of 2020 has brought about a significant change in the regulatory landscape of mining activities in Indonesia by centralizing authority at the national level. Prior to this change, local governments held the power to regulate and oversee mining operations within their jurisdictions, allowing for localized supervision and a more direct response to environmental concerns. However, the legislative amendment has transferred this authority to the central government, which has created a gap between the enforcement of environmental laws and the communities most affected by mining. This centralization has made it more difficult for local communities to access legal channels to address environmental damage or to hold mining companies accountable for their activities. As a result, affected communities face significant challenges in advocating for their rights, and their ability to intervene in environmental destruction is severely curtailed.

This shift in regulatory power has had direct consequences for environmental governance and has facilitated corporate-led environmental degradation. With the central government's oversight often distant from the actual sites of mining activities, the lack of localized supervision has allowed corporations to operate with increased freedom and less accountability. Moreover, the ease with which investment permits are now issued under the new regulatory framework has further contributed to the expansion of mining operations, often without thorough environmental assessments. This has led to growing discontent and resistance among communities who suffer from the negative impacts of mining activities, including deforestation, pollution, and land degradation. Communities' efforts to protect their local environment are increasingly met with legal

and bureaucratic obstacles, as their ability to engage in environmental advocacy is diminished under the new law.

Furthermore, the findings highlight that corporations frequently exploit legal loopholes within the amended law, benefiting from ambiguities and gaps that allow for less stringent environmental protection. These corporations often receive tacit support from high-ranking legal institutions, as well as political backing from influential figures in both government and the legislature. Such support creates an environment of impunity, where enforcement efforts against environmental violations are either weak or entirely absent. Consequently, this has led to an increase in unregulated mining operations across Indonesia, both officially sanctioned and illegal. These activities are particularly concentrated in remote and ecologically sensitive regions, often located outside Java, where oversight is minimal and environmental regulations are not adequately enforced. The lack of regulation in these areas poses a serious threat to environmental sustainability, as unchecked mining operations continue to degrade natural habitats and threaten the livelihoods of local communities.

## **DISCUSSION**

The centralization of mining regulation in Indonesia presents a profound challenge to environmental protection, fundamentally altering the dynamics of governance and accountability. Prior to the ratification of Law Number 3 of 2020, local governments held significant authority in regulating and overseeing mining activities within their territories. This decentralized approach enabled a more tailored response to the specific environmental concerns of each region. However, by transferring regulatory power to the central government, the law has effectively removed local authorities' ability to monitor and intervene in mining operations. This shift has created a disconnect between those most affected by environmental harm and the agencies responsible for regulation, ultimately limiting the capacity for timely and effective responses to environmental destruction. Local governments, which are often more aware of regional ecological needs and community interests, now find themselves unable to take meaningful action against corporations causing environmental damage.

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One of the critical implications of this centralization is its impact on environmental governance. The consolidation of regulatory power has resulted in a less responsive and more bureaucratic system, which is often distant from the realities of mining operations on the ground. This central authority is not only geographically removed but is also less likely to consider local environmental concerns and community well-being in its regulatory decisions. The new framework prioritizes the facilitation of investment and the expansion of the mining sector, often at the expense of environmental sustainability and local community rights. Consequently, this approach has led to a scenario where environmental governance is primarily focused on economic development rather than ecological preservation, making it more challenging to implement comprehensive and effective environmental protection measures.

In discussing corporate accountability, the study identifies a critical issue: the ability of corporations to operate with limited legal constraints under the new centralized regulatory structure. The lack of

localized oversight has provided corporations with greater leeway to exploit natural resources without being held accountable for the resulting environmental harm. The legislation's permissive approach to investment permits and mining operations allows corporations to proceed with activities that may not be environmentally sustainable, often without conducting thorough environmental impact assessments. This absence of direct accountability is further compounded by the support corporations receive from political and legal entities, which undermines efforts to enforce environmental laws and sanctions for ecocide effectively. Therefore, holding corporations directly responsible for environmental crimes becomes a complex challenge in the face of these regulatory and political dynamics.

The discussion further emphasizes the need for a firm legal response to corporate crimes of ecocide. Addressing environmental destruction requires robust legal mechanisms that clearly define and penalize acts of ecocide. This includes stronger oversight mechanisms at both the national and local levels to ensure that corporate activities are continuously monitored for compliance with environmental standards. Enhanced local participation is also crucial; by empowering local governments and communities to engage in the regulation and oversight of mining activities, a more nuanced and responsive approach to environmental governance can be achieved. Local stakeholders are often better positioned to understand the immediate impact of environmental harm, making their involvement key to both preventing and mitigating the consequences of corporate-led environmental damage.

Moreover, the study highlights the necessity of legal reforms that directly hold corporate actors accountable for environmental harm. The establishment of clear legal provisions that define corporate responsibility in terms of environmental protection is essential. Such reforms would ensure that corporations are not only responsible for adhering to environmental regulations but are also liable for any violations or damage caused. The concept of strict liability, where corporations are held responsible regardless of intent, could be a powerful legal tool to address ecocide and ensure that corporate actions align with environmental sustainability. Furthermore, strengthening legal avenues for communities to seek recourse and compensation when affected by environmental destruction is vital in creating an equitable framework for environmental justice.

Finally, the role of political will is underscored as a driving force for meaningful legal reforms and sustainable environmental management. While legal provisions and oversight mechanisms are crucial, their effectiveness largely depends on the political environment in which they are implemented. Political support for environmental protection can greatly enhance the enforcement of laws and the ability to hold corporations accountable for ecocide. Conversely, political interests aligned with corporate profits can hinder the implementation of environmental regulations and weaken legal responses to environmental harm. Therefore, fostering a political climate that values sustainability, respects community rights, and prioritizes environmental protection is essential for the successful governance of natural resources and the prevention of corporate-led environmental exploitation.

## **CONCLUSION**

The conclusion of this study highlights the critical impact of the current legal framework on environmental protection in Indonesia, particularly following the amendment brought by Law Number 3 of 2020. This legal reform has centralized authority over mining activities, transferring power from local to central government, which has subsequently weakened the ability of local stakeholders to safeguard their environment effectively. As a result, corporate exploitation of

natural resources has intensified, facilitated by the lack of localized oversight and the ease with which permits for mining and related activities are granted. This shift has contributed to a governance gap that not only hinders environmental conservation but also marginalizes communities directly impacted by corporate-led environmental harm. The law, in its current form, therefore presents a significant barrier to both sustainable environmental management and the pursuit of ecological justice in Indonesia.

To address the challenges posed by this legislative change and the increasing incidence of ecocide, the study emphasizes the need for a multi-faceted approach centered around enhancing law enforcement, ensuring corporate accountability, and implementing legal reforms. Strengthened enforcement mechanisms are essential to hold corporations liable for environmental damage, ensuring that violations are met with appropriate sanctions. Furthermore, the empowerment of local governments and communities is crucial for creating a more responsive and transparent environmental governance system. This includes legal provisions that support community participation in environmental monitoring, as well as mechanisms that enable local authorities to respond swiftly to environmental harm. Such reforms would not only enhance environmental protection but also promote corporate responsibility, fostering a legal environment in which economic development is balanced with the sustainable management of natural resources and the rights of local communities to a healthy environment are preserved.

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